

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.5393 of 2015

Oral Order:

The petitioners assail notice dated 12.1.2015 issued under Section 4(1) of the Public Premises (Eviction of Unauthorized Occupants) Act 1971 (for short "the Act"). In Writ Petition No.5458 of 2015 this Court directed the Revenue Divisional Officer, SPSR Nellore District to conduct survey of lands, claimed as encroachments by the Railways land for which possession certificate was issued and submit the survey report. The survey report dated 2.4.2015 is placed on record. From the survey report, it is evident that survey No.590 is classified as land belonging to the Railways and the impugned notices are issued in respect of the alleged encroachment in R.S.No.590, Nellore Bit I village.

Learned counsel appearing for the petitioners by placing strong reliance upon the decision reported in GOVERNMENT OF A.P. v. THUMMALA KRISHNA RAO, contends that the respondents have to pursue the remedy of civil suit for eviction as there are serious disputed questions of fact on title and length of possession.

I have perused the material available on record and the facts and circumstances which fell for consideration in the reported decision.

The petitioner assails the show cause notice dated 12.1.2015 and one of the objections against the show cause notice is length of possession claimed by the petitioners on the subject plot. This Court cannot on the material available on record hold that the length of possession ensued into a right in favour of the petitioner and the notice requires interdiction. The said circumstance is a matter of trial and the ground objected to by the petitioners against the impugned notice is not sustainable. The petitioners are given two weeks time from receipt of copy of order to file objection/explanation against the notice dated 12.1.2015. It is needless to observe that respondent

No.5 affords fair and reasonable opportunity to the petitioners, conducts enquiry and passes appropriate orders in accordance with law. Till appropriate orders are passed and communicated to the petitioners, status quo as regards possession as on today is directed to be maintained by both the parties.

The writ petition is accordingly disposed of. No costs. Pending miscellaneous petitions, if any, shall stand closed in consequence.

JUSTICE S. V. BHATT

kk/Dated : 28.4.2015

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